



Why we need to preserve IRB for refugee determination

There are concerns that the government is considering undermining the role of the Immigration and Refugee Board (IRB) as an independent quasi-judicial tribunal responsible for refugee determination in Canada.

The CCR is strongly opposed to such a move for the following reasons.

- Refugee determination must be done by an expert, independent quasi-judicial tribunal. A quasi-judicial tribunal is the minimum level of institutional structure appropriate to hear refugee claimants, given the gravity of the rights issues at stake.
- The IRB has earned a reputation around the world as a model for refugee determination. Many other countries turn to Canada's IRB to improve their own refugee determination systems.
- It is crucial that refugee determination is independent and isolated from other arms of the government, whose political, diplomatic or institutional priorities might taint the credibility of refugee determination. During his recent visit to Canada, the UN High Commissioner for Refugees, Filippo Grandi, emphasized the need for independence: "The board has to remain independent, this for us is very, very important."¹
- Because of its focus on refugee determination, the IRB has been able to develop significant expertise that is essential for good quality refugee determination, including through Chairperson's Guidelines (e.g. Gender, SOGIE, showing innovation and providing leadership internationally), research and documentation using methods that respect risks inherent to the refugee reality, and jurisprudence.
- Canada must continue to invest in a high-quality first-level decision. Investing in skilled and independent decision-makers and a full and fair opportunity for claimants to be heard pays off. By working to get it right as often as possible the first time, there is less need for expensive appeals, and more confidence in the system overall.

Canada must avoid the temptation to follow other countries that have opted for a low quality first level: it may be cheaper in the short term, but this advantage is offset by a high rate of decisions overturned at appeal. For example in the UK, 41% of decisions are overturned by the courts (Home Office Feb 2017 data).

- It is true that the IRB has periodically developed a backlog of refugee claims (as is the case now), but this is due to failures of the government to appoint or provide increased funding for members when numbers of claims increase. The solution is to ensure that the capacity of the system to render decisions is rapidly increased when claim numbers increase.

¹ National Post, [Keep politics out of in-country refugee determination process: UNHCR chief](#), 6 November 2017.

Why IRB must be responsible for refugee determination

- The IRB process could be much more efficient if the government changed the law to eliminate unhelpful rules (notably unrealistic timelines and different processes for some claimants based on country of origin).
- The IRB has been working to maximize its efficiency within existing resources. These efforts are already bearing fruit. In 2017 the rate of finalization was 37% higher than in 2016.
- In addition to the fact that Immigration, Refugees and Citizenship Canada (IRCC) lacks the necessary independence to do refugee determination, the department's track record is not so good. Canada already has some refugee determinations done by officials at IRCC in the Pre-Removal Risk Assessment (PRRA). This process delivers very low quality decisions, does not give claimants a fair chance to be heard (rarely even gives a chance for claimants to be heard in person) and is not known for efficiency.

We call on the government to:

- Recommit to the IRB as Canada's expert, independent quasi-judicial tribunal responsible for refugee determination.
- Provide the IRB with the increased resources necessary for it to hear the increased number of claimants awaiting determination.
- Amend the law to eliminate the Designated Country of Origin regime and provide more flexible and responsive timelines.

